

THIRTY-EIGHTH DAY

(Wednesday, March 23, 1955)

The Senate met at 10:30 o'clock a. m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present:

Aikin	Moore
Ashley	Owen
Bracewell	Parkhouse
Colson	Phillips
Corbin	Ratliff
Fly	Roberts
Fuller	Rogers
Hardeman	of Childress
Hazlewood	Rogers of Travis
Kazen	Secrest
Kelley	Shireman
Latimer	Strauss
Lock	Wagonseller
Martin	Weinert
McDonald	Willis
Moffett	

Absent—Excused

Lane

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation as follows:

"Heavenly Father, give us eyes to see life on three levels, the physical, mental and the spiritual. Forbid that we should be satisfied to live beneath our privileges; call us to the high level of peace in Thy presence, and make us to be labourers together with Thee. For Christ's sake. Amen."

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**House Bills and Resolution on
First Reading**

The following bills and resolution received from the House were read first time and were referred to the committees indicated:

H. B. No. 392, To the Committee on Privileges and Elections.

H. B. No. 584, To the Committee on Counties and County Boundaries.

H. B. No. 735, To the Committee on Public Health.

H. B. No. 290, To the Committee on Criminal Jurisprudence.

H. B. No. 279, To the Committee on Civil Jurisprudence.

H. B. No. 253, To the Committee on Insurance.

H. B. No. 249, To the Committee on State Affairs.

H. B. No. 97, To the Committee on Educational Affairs.

H. B. No. 159, To the Committee on State Affairs.

H. B. No. 524, To the Committee on Insurance.

H. B. No. 186, To the Committee on State Affairs.

H. C. R. No. 44, To the Committee on Civil Jurisprudence.

H. B. No. 602, To the Committee on Criminal Jurisprudence.

**House Concurrent Resolution 69 on
Second Reading**

The President laid before the Senate on its second reading the following resolution:

H. C. R. No. 69, Authorizing Enrolling Clerk to make certain corrections in H. B. No. 151.

The resolution was read second time and was adopted.

Senate Resolution 134

Senator Latimer offered the following resolution:

Whereas, We are honored today to have in the gallery the Civics Class from the Alamo Heights Senior High School of San Antonio, Texas, accompanied by their teacher, Miss Johnnie McCaughan; and

Whereas, These students and guests are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine class of young American citizens is here to observe and learn firsthand the workings of their State Government; now, therefore, be it

Resolved, That we officially recognize and welcome this class and commend them for their interest, and that a copy of this resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Latimer, by unanimous consent, presented the students and Miss McCaughan to Members of the Senate.

Reports of Standing Committees

Senator Strauss submitted the following report:

Austin, Texas,
March 23, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred S. J. R. No. 5, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass, as amended, and be printed.

STRAUSS, Chairman.

Senator Fly submitted the following report:

Austin, Texas,
March 23, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries, to whom was referred H. B. No. 584, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

FLY, Chairman.

Senator Shireman submitted the following reports:

Austin, Texas,
March 22, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred H. B. No. 259, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

SHIREMAN, Chairman.

Austin, Texas,
March 23, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Game

and Fish, to whom was referred H. B. No. 283, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

SHIREMAN, Chairman.

Austin, Texas,
March 23, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred H. B. No. 582, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

SHIREMAN, Chairman.

Austin, Texas,
March 23, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred H. B. No. 622, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

SHIREMAN, Chairman.

Austin, Texas,
March 23, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred H. B. No. 205, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

SHIREMAN, Chairman.

Bill Signed

The President signed, in the presence of the Senate, after the caption had been read, the following enrolled bill:

S. B. No. 97, A bill to be entitled "An Act to establish and adopt a probate code for the State of Texas by revising and rearranging the statutes of this State which pertain to descent and distribution, wills, administration of decedents' estates, actions

to declare heirship, guardianship, and other probate matters; and by making various changes in, omissions from, and additions to, such statutes; defining the meaning of certain words and terms used in the code; and fixing the effective date of the code; providing for the application of the code; validating certain proceedings had under existing and prior statutes; repealing statutes and all laws or parts of laws in conflict with the code; containing a severability clause; and declaring an emergency."

Message from the House

Hall of the House of Representatives,
Austin, Texas,
March 23, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. B. No. 28, A bill to be entitled "An Act making it unlawful to break into a coin-operated machine with intent to commit a felony or theft; defining an offense; prescribing a penalty; defining certain terms; and declaring an emergency."

(With amendments.)

Respectfully submitted,
DOROTHY HALLMAN,
Chief Clerk, House of Representatives

House Bill 786 on Second Reading

On motion of Senator Moffett, and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H. B. No. 786, "Providing for the further maintenance of roads in Wichita County; validating bonds voted for road, bridge and right-of-way purposes, authorizing Commissioners Court of said County to acquire right of way; providing a severability clause; and declaring an emergency."

The bill was read second time and passed to third reading.

House Bill 786 on Third Reading

Senator Moffett moved that Senate Rule 32 and the Constitutional

rule requiring bills to be read on three several days be suspended and that House Bill No. 786 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—30

Aikin	Moore
Ashley	Owen
Bracewell	Parkhouse
Colson	Phillips
Corbin	Ratliff
Fly	Roberts
Fuller	Rogers
Hardeman	of Childress
Hazlewood	Rogers of Travis
Kazen	Secrest
Kelley	Shireman
Latimer	Strauss
Lock	Wagon seller
Martin	Weinert
McDonald	Willis
Moffett	

Absent—Excused

Lane

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—29

Aikin	Moore
Ashley	Owen
Bracewell	Parkhouse
Colson	Phillips
Corbin	Ratliff
Fly	Roberts
Fuller	Rogers
Hazlewood	of Childress
Kazen	Rogers of Travis
Kelley	Secrest
Latimer	Shireman
Lock	Strauss
Martin	Wagon seller
McDonald	Weinert
Moffett	Willis

Nays—1

Hardeman

Absent—Excused

Lane

Senate Resolution 136

Senator Weinert offered the following resolution:

Whereas, We are honored today to have in the gallery 33 pupils of the

Fifth Grade Class of San Marcos Upper Elm School, San Marcos, Texas, accompanied by Mrs. Coleman Jarles; and

Whereas, These students and guests are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine class of young American citizens are here to observe and learn firsthand the workings of their State Government; now, therefore, be it

Resolved, That we officially recognize and welcome this class and commend them for their interest, and that a copy of this resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Weinert presented the students and Mrs. Jarles to the Members of the Senate.

Senate Resolution 137

Senator Fly offered the following resolution:

Whereas, We are honored today to have in the gallery the Seventh Grade History and Government Class of the Madderro School of Beeville, Texas, accompanied by their teacher, Robert H. Gayle, consisting of 40 pupils; and

Whereas, These students and guests are on an educational tour of the Capitol Building and the Capital City; and

Whereas, These fine young American citizens are here to observe and learn firsthand the workings of their State Government; now, therefore, be it

Resolved, That we officially recognize and welcome this class and commend them for their interest, and that a copy of this resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Fly, by unanimous consent, presented the students and Mr. Gayle to the Members of the Senate.

Presentation of Guests

Senator Rogers of Travis, by unan-

imous consent, presented students of the Elgin High School and their teacher, Miss Camilla Oden, to the Members of the Senate.

Senate Resolution 138

Senator Corbin offered the following resolution:

Whereas, We are honored today to have as visitors in the Senate, the Honorable A. W. Salyars, President of the Lubbock County Bar Association, Mr. Forrest Bowers, and Mr. Robert C. Wright, Members of the Lubbock County Bar Association; and

Whereas, We desire to welcome these distinguished visitors to the Capitol Building and to Austin, the Capital City; now, therefore, be it

Resolved, That their presence be recognized by the Senate of Texas and that they be extended the official welcome of the Senate.

The resolution was read and was adopted.

Senator Corbin, by unanimous consent, presented the distinguished guests to the Members of the Senate.

House Bill 325 Re-referred

On motion of Senator Latimer, and by unanimous consent, H. B. No. 325 was withdrawn from the Committee on State Affairs and re-referred to the Committee on Counties and County Boundaries.

Committee Substitute House Bill No. 140 on Second Reading

Senator Martin asked unanimous consent to suspend the regular order of business and take up C. S. H. B. No. 140 for consideration at this time.

There was objection.

Senator Martin then moved to suspend the regular order of business and take up C. S. H. B. No. 140 for consideration at this time.

The motion prevailed by the following vote:

Yeas—27

Aikin
Ashley
Colson
Corbin

Fly
Fuller
Hardeman
Hazlewood

Kazen	Roberts
Kelley	Rogers
Lock	of Childress
Martin	Rogers of Travis
McDonald	Secrest
Moffett	Shireman
Moore	Strauss
Owen	Wagonseller
Parkhouse	Weinert
Ratliff	Willis

Nays—3

Bracewell	Phillips
Latimer	

Absent—Excused

Lane

The President laid before the Senate on its second reading and passage to third reading the following bill:

C. S. H. B. No. 140, A bill to be entitled "An Act appropriating money for the support of the judicial, executive, and legislative branches of the State Government, and for State aid to designated public junior colleges for the two-year period beginning September 1, 1955, and ending August 31, 1957; authorizing and prescribing conditions, limitations, rules, and procedures, for allocating and expending the appropriated funds; and declaring an emergency."

The bill was read second time.

Senator Phillips offered the following amendment to the bill:

Amend H. B. 140, page 163, Sec. 5, Medical Branch Hospitals, by substituting for the figures under Aug. 31, 1956 and Aug. 31, 1957, 4,849,876 and 4,977,743, the following figures, 5,849,876 and 5,977,743.

The amendment was read.

(Pending discussion by Senator Phillips of his amendment, Senator Kelley occupied the Chair temporarily.)

(President in the Chair.)

Question—Shall the amendment by Senator Phillips to C. S. H. B. No. 140 be adopted?

Recess

On motion of Senator Weinert, the Senate, at 12:05 o'clock p.m., took recess until 2:00 o'clock p.m.

After Recess

The President called the Senate to order at 2:00 o'clock p.m. today.

Bill Signed

The President signed, in the presence of the Senate, after the caption had been read, the following enrolled bill:

H. B. No. 786, Providing for the further maintenance of roads in Wichita County; etc., and declaring an emergency.

Reports of Standing Committees

Senator Fly, by unanimous consent, submitted the following report:

Austin, Texas,
March 23, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries, to whom was referred H. B. No. 325, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

FLY, Chairman.

Senator Corbin, by unanimous consent, submitted the following report:

Austin, Texas,
March 23, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Public Health, to whom was referred H. B. No. 735, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

CORBIN, Chairman.

Senator Fly, by unanimous consent, submitted the following report:

Austin, Texas,
March 23, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries, to whom was referred H. B. No. 583, have had the same under consideration, and we

are instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

FLY, Chairman.

Senate Bill 28 with House Amendments

Senator Moore called S. B. No. 28 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and House amendments before the Senate, and the House amendments were read.

Senator Moore moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

Committee Meeting on Judicial Districts

On motion of Senator Weinert, and by unanimous consent of the Senate, the Committee on Judicial Districts was granted permission to hold a meeting of the committee at 3:20 o'clock p.m. today.

Reports of Standing Committee

Senator Weinert, by unanimous consent, submitted the following reports:

Austin, Texas,
March 23, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Judicial Districts, to whom was referred S. B. No. 176, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

WEINERT, Chairman.

Austin, Texas,
March 23, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Judicial Districts, to whom was referred S. B. No. 136, have had the same under consideration, and we are in-

structed to report it back to the Senate with the recommendation that it do pass and be not printed.

WEINERT, Chairman.

Austin, Texas,
March 23, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Judicial Districts, to whom was referred S. B. No. 342, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

WEINERT, Chairman.

Austin, Texas,
March 23, 1955.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Judicial Districts, to whom was referred S. B. No. 35, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

WEINERT, Chairman.

Senate Bills Nos. 176, 136, 342 and 35 Ordered Not Printed

On motion of Senator Weinert, and by unanimous consent, Senate Bills Nos. 176, 136, 342 and 35 were ordered not printed.

Senate Resolution 139

Senator Ashley, by unanimous consent, offered the following resolution:

Whereas, We are honored today to have in the gallery the Sixth Grade of the Marble Falls Junior High School, accompanied by Mrs. Mack Calahan; and

Whereas, These students and guests are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine class of young American citizens is here to observe and learn firsthand the workings of their State Government; now, therefore, be it

Resolved, That we officially recognize and welcome this class and commend them for their interest, and that a copy of this resolution, prop-

erly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Ashley, by unanimous consent, presented the students and Mrs. Calahan to the Members of the Senate.

**Committee Substitute House Bill 140
on Second Reading**

The Senate resumed consideration of the pending business (same being C. S. H. B. No. 140 on its second reading with an amendment by Senator Phillips pending).

Question—Shall the amendment by Senator Phillips to C. S. H. B. No. 140 be adopted?

(Pending discussion by Senator Phillips of his amendment, Senator Aikin occupied the Chair.)

(President in the Chair.)

Question—Shall the amendment by Senator Phillips to C. S. H. B. No. 140 be adopted?

Adjournment

On motion of Senator Latimer, the Senate, at 6:02 o'clock p.m. adjourned until 10:30 o'clock a.m. tomorrow.

In Memory of
Miss Harriet Smither

Senator Aikin offered the following resolution:

(Senate Resolution 135)

Whereas, On Sunday, March 20, at her home in Austin, the brilliant and valuable public career of Miss Harriet Smither, Archivist of the Texas State Library for more than 28 years before her retirement in 1953, was closed by death; and

Whereas, Miss Smither was born in Virginia, but came to Texas as a child and built an enviable record of service to her adopted state, marked by tireless effort and complete unselfishness. In her varied and extensive studies, she concentrated mainly on Texas history, and through her diligent, painstaking efforts developed one of the most complete Archives collections in the entire Southwest. Among the many historical treasures she acquired in her relentless campaign for records in the Archives were muster rolls of Texans who served in the War for Texas Independence and the Civil War; and

Whereas, She was joint author of a textbook in American history; wrote and edited a number of other books and journals, including two volumes of papers of Mirabeau Lamar, Journals of the Fourth and Sixth Congresses of the Republic of Texas, outstanding tracts on such Texas patriots as Anson Jones, Ashbel Smith and many others, and at the time of her death was engaged in writing her doctors' dissertation, The Life of Dr. Ashbel Smith; and

Whereas, In recent years, during the tidelands oil controversy, Miss Smither's explanation of early land deals in Texas were prized contributions to the Texas case; and

Whereas, Miss Smither, a devoted Episcopalian, was possessed of rare and charming attributes and deserved, commanded and held the highest respect and esteem of those with whom she served; now, therefore, be it

Resolved, That in fitting and proper recognition of her long and distinguished service in making a glorious and splendid history live in the hearts of Texans, both present and future, a page in the Senate Journal of this 54th Legislature be dedicated to her memory; and be it further

Resolved, That copies of this resolution, properly endorsed, be mailed to the surviving members of her family: her brother, Fred Smither of Mobile, Alabama; and to her three nieces and one nephew.

AIKIN
HARDEMAN

The resolution was read and was adopted by a rising vote of the Senate.